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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/579,749 | 02/16/2007 | Jean-Loup Lemesre | BJS-1721-116 | 9412 |
| 23117 7590 01/21/2009 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203 | | | | |
| EXAMINER DUFFY, PATRICIA ANN | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 1645 | | | | |
| MAIL DATE | | DELIVERY MODE | | |
| 01/21/2009 | | PAPER | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/579,749

Applicant(s)

LEMESRE ET AL.

Examiner

Patricia A. Duffy

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
4a) Of the above claim(s) 1-5 and 7-9 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 6 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 16 February 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/5508)
Paper No(s)/Mail Date 5-18-06
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Inventor's Patent Application
6) ☐ Other: _____

DETAILED ACTION

The response filed 10-8-08 has been entered into the record. Claims 1-9 are pending.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

The drawings in this application have been accepted. No further action by Applicant is required.

Specification

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Information Disclosure Statement

The information disclosure statement filed 5-18-06 has been considered. An initialed copy is enclosed.

Election/Restrictions

Applicant's election of Group II in the response filed 10-8-08 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Claims 1-5 and 7-9 are withdrawn from consideration.

Claim Objections

Claim 6 is objected to because of the following informalities: The claims alternatively recite non-elected subject matter. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 6 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lemesre (US 2003/0068690, published April 10 2003).

The claims are drawn to an isolated immunogenic protein characterized in that it has a sequence chosen from SEQ ID NO:6. The specification teaches that the proteins are PSA or excretion/secretion antigens) produced by the parasite *L. amazonensis*. The specification teaches that such proteins have variable molecular weights based on cleavage of leader peptides and post translation processing (glycosylation and/or phosphorylation) at pages 13-14).

Lemesre teaches the isolated immunogenic ESA proteins from the culture supernatant of *L. amazonensis* at page 20, column 2, Example 19. The instant protein of SEQ ID NO:6 is inherently present in the supernatant as admitted by Applicants in the instant specification at page 2, second full paragraph. The further characterization of known proteins does not distinguish the instant protein from that of the prior art because the amino acid sequence is inherent to the protein.

Given the broadest reasonable interpretation of isolation, the PAS or excretion/secretion antigens/proteins of the prior art are necessarily isolated and purified because they are removed from their natural environment, the parasite and concentrated for injection into a mouse footpad.

Status of the Claims

Claim 6 stands rejected. Claims 1-5 and 7-9 are withdrawn from consideration.

Conclusion

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia A. Duffy whose telephone number is 571-272-0855. The examiner can normally be reached on M-Th 6:30 am - 5:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor Robert Mondesi can be reached at 571-272-0956.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

/Patricia A. Duffy/
Primary Examiner